

REMARKS

The Examiner is thanked for the performance of a thorough search.

In the specification, paragraphs [0004] has been amended to correct an error when referencing an item in Figure 1.

By this amendment, claims 1, 2, 10, 12, 21 and 23 has been amended, claims 5-9, 11, 13-20, 22 and 24 have been cancelled and claims 25-41 have been added. Hence, Claims 1-4, 10, 12, 21, 23 and 25-41 are pending in the application.

ALL PENDING CLAIMS CONFORM TO 35 U.S.C. § 101

Claims 21 and 22 have been rejected under 35 U.S.C. § 101 because the claims are allegedly directed towards non-statutory subject matter. More specifically, the Office Action states that "... the claims have a computer-readable medium "carrying" instructions... Such mediums are disclosed to include non-statutory transmission media. To overcome this rejection, the claims must be amended to state that the claims are "storing" the instructions."

Claim 21 has been amended to recite "computer-readable *storage* medium" to comply with 35 USC §101 and Claim 22 has been cancelled. Therefore, the rejection of Claim 21 is respectfully requested to be withdrawn.

THE PENDING CLAIMS ARE PATENTABLE OVER THE CITED ART

Claims 1-9, 14-16, 18 and 21-24 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent 5,550,973 issued to Forman et al., ("*Forman*"). Claims 10, 11, 19 and 20 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable by *Forman*. Claims 12 and 13 were rejected under 35 U.S.C. § 103(a) as being allegedly

unpatentable by Forman in view of U.S. Patent 6,374,362 issued to Ohtsu et al., ("*Ohtsu*").

Applicants respectfully traversed.

Even if the cited art were to be properly combined, each of the pending claims recites at least one element that is not disclosed, taught, or suggested by the cited art, either individually or in combination.

Claim 1

Claim 1 recites:

detecting a failed node within the plurality of processing nodes;
granting access, without delay, to the shared resources that were not subject to access control by the failed node and, at the time the failed node was detected, were not subject to exclusive access by the failed node;
releasing locks to shared resources that were held by the failed node;
remastering, to non-failed nodes, shared resources that were mastered by the failed node;
granting access, to shared resources that the failed node controlled and, at the time the failed node was detected, were subject to access by a non-failed node;
performing redo operations of the failed node; and
granting access, after performing redo operations, to all shared resources.
(emphasis added)

At least the above-bolded element of Claim 1 is not disclosed, taught, or suggested by *Forman*.

Forman fails to disclose the limitation in Claim 1 of "granting access, without delay, to the shared resources that were not subject to access control by the failed node and, at the time the failed node was detected, were not subject to exclusive access by the failed node" and "granting access, to shared resources that the failed node controlled and, at the time the failed node was detected, were subject to access by a non-failed node."

There is no teaching or suggestion anywhere in *Forman* of granting access without a delay or prior to completing the recovery process. Rather, *Forman* discloses that when a failure is detected, the node which holds the write lock must assume master process status before processing returns to a normal state (Fig. 4 and Col. 5, lines 21-25). The Office Action alleges that when the node that fails is neither the master nor the write lock holder, access is granted. However, *Forman* discloses in Fig. 4, that once a failure is detected, a node assumes the master process, and thus the recovery process is complete, before processing returns to normal. Thus the end of the recovery process marks when access may be granted in *Forman*.

Furthermore, *Forman* does not teach or disclose that access may be granted in stages as in Claim 1. Claim 1 grants access to three groups of resources, with no delay, after remastering and releasing locks, and after the recovery process is completed. *Forman* only discloses that processing returns to normal once a node assumes the master process. There is no mention that the recovery process in *Forman* may be divided or that normal processing may proceed at any time prior to completing the entire recovery process. Thus, *Forman* fails to teach or suggest granting access to resources as three distinct groups, as recited in Claim 1.

As at least one element is not disclosed, taught, or suggested by *Forman*, it is respectfully submitted that Claim 1 is patentable over the cited art and is in condition for allowance.

Claims 2-4, 10, 12, 21, 23 and 25-41

Claims 21, 23 and 30-41 feature limitations similar to those discussed above with respect to Claim 1 respectively, except that Claims 21 and 30-41 are recited in computer-readable medium format and Claim 23 is recited in computer system format. Consequently, for at least the reasons given above with respect to Claim 1, it is respectfully submitted that Claims 21, 23 and 30-41 are patentable over the cited art and are each in condition for allowance.

Claims 2-4, 10, 12 and 25-30 are dependent claims, each of which depends (directly or indirectly) on Claim 1 discussed above. Each of Claims 2-4, 10, 12 and 25-30 is therefore allowable for the reasons given above for the claim on which it depends. In addition, each of Claims 2-4, 10, 12 and 25-30 introduces one or more additional limitations that independently render it patentable. However, due to the fundamental differences already identified, to expedite the positive resolution of this case a separate discussion of those limitations is not included at this time, although the Applicants reserve the right to further point out the differences between the cited art and the novel features recited in the dependent claims.

CONCLUSION

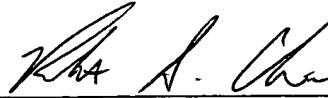
For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP



Robert S. Chee
Reg. No. 58,554

2055 Gateway Place, Suite 550
San Jose, CA 95110
(408) 414-1080
Date: March 20, 2007
Facsimile: (408) 414-1076

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

on 3/20/07 by Trudy Bagdon